SUPREME COURT OF THE UNITED STATES.

No. ~~197.~~ 84,

THE MARINE BANK OF CHICAGO, PLAINTIFF IN ERROR

vs.

DUDLEY C. HALL.

IN ERROR TO THE SUPREME COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

No. 197.

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1 Pleas in the circuit court of the United States for the northern district of Illinois, before the Hon. Thomas Drummond, judge of the district court aforesaid, and on Saturday, the fourteenth day of December, in the year of our Lord one thousand eight hundred and sixty-one, and of the independence of the United States the eighty-sixth year.

WM. H. BRADLEY, *Clerk.*

DUDLEY C. HALL
v.
MARINE BANK OF CHICAGO. } Assumpsit.

Be it remembered that on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, said plaintiff, by Sandford B. Perry, esq., his attorney, came into the clerk's
2 office of the circuit court of the United States for the northern district of Illinois, and filed his precipe for summons, bond for costs, and declaration, all of which read in the words and figures following, to wit:

Precipe.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

Circuit court, October term, A. D. 1861.

DUDLEY C. HALL
v.
MARINE BANK OF CHICAGO. }

The clerk of said court will issue a summons in the above cause directed to the marshal of said district, in a plea of trespass on the case on promises returnable at the October term of said court, A. D. 1861, to the damage of the plaintiff of four thousand dollars.

SANDFORD B. PERRY,
Plaintiff's Attorney.

To WM. H. BRADLEY, Esq., *Clerk.*

CHICAGO, 6 *Aug't*, 1861.

Endorsed: Filed Aug. 6, 1861.

WM. H. BRADLEY, *Cl'k.*

3 *Bond for costs.*

UNITED STATES OF AMERICA,
Northern District of Illinois:

Circuit court, October term, A. D. 1861.

DUDLEY C. HALL
v.
MARINE BANK OF CHICAGO. } In assumpsit.

I enter myself security for costs in this cause, and promise to pay all costs which may accrue to the opposite party in this action or to

any of the officers of this court; and in default of payment by the plaintiff of any costs ordered or adjudged to be paid by him, I hereby agree and stipulate that execution may issue against my property for any costs taxed against him.

Dated this 6th day of August, A. D. 1861.

JOHN Q. HOYT.

Endorsed: Filed Aug. 6, 1861.

WM. H. BRADLEY, *Cl'k.*

Declaration.

UNITED STATES OF AMERICA:

Circuit court of the United States for the 7th circuit and northern district of Illinois, of the October term, 1861.

4 Dudley C. Hall, who is a resident of Medford, in the State of Massachusetts, and a citizen of the State of Massachusetts, plaintiff in this suit, by Sandford B. Perry, his attorney, comes and complains of the Marine Bank of Chicago, a citizen of the State of Illinois, and a corporation existing under and by virtue of the laws of the State of Illinois, and doing business at Chicago, in the district aforesaid, defendant in this suit, who is summoned, &c., to answer to the plaintiff of a plea of trespass on the case on promises.

For that whereas the said defendant heretofore, to wit, on the first day of August, in the year of our Lord one thousand eight hundred and sixty-one, at Chicago, to wit, at Chicago, in the district aforesaid, was indebted to the said plaintiff in the sum of three thousand dollars of lawful money of the United States of America for divers goods, wares, and merchandize, by the said plaintiff before that time sold and delivered to the said defendant, and at the special instance and request of the said defendant; and being so indebted to the said plaintiff, the said defendant, in consideration thereof, after-

5 wards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said sum of money last mentioned when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, in consideration that the said plaintiff had before that time, at the like special instance and request of the said defendant, sold and delivered to the said defendant divers other goods, wares, and merchandize of the said plaintiff, the said defendant then and there undertook and faithfully promised the said plaintiff that the said defendant would well and truly pay unto the said plaintiff so much money as the last aforesaid goods, wares, and merchandise at the time of the sale and delivery thereof were reasonably worth when the said defendant should be thereunto afterwards requested. And the said plaintiff aver that the said goods, wares, and merchandize last mentioned at the time of the sale and delivery thereof were

6 reasonably worth the further sum of three thousand dollars of like lawful money aforesaid, to wit, at the place aforesaid, whereof the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, had notice. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, was indebted to the said plaintiff in the further sum of three thousand dollars of like lawful money as aforesaid, for money before that time lent and advanced by the said plaintiff to the said defendant, and at the like request of said defendant; and for other money by the said plaintiff before that time paid, laid out, and expended for the said defendant, and at the like request of said defendant; and for other money by the said defendant before that time had and received to and for the use of the said plaintiff; and also in the further sum of three thousand dollars, for so much money before that time and then due and payable from the said defendant to the said plaintiff for interest upon and for the forbearance of diverse

7 large sums of money before then due and owing from the said defendant to the said plaintiff, and by the said plaintiff foreborne to the said defendant for diverse long spaces of time, before then elapsed, at the like special instance and request of the said defendant. And being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said several sums of money in this count mentioned when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards to wit, on the same day and year, and at the place aforesaid, accounted together with the said plaintiff of and concerning diverse other sums of money before that time due and owing from the said defendant to the said plaintiff, and then and there being in arrear and unpaid. And upon such accounting the said defendant then and there was found to be in arrear and indebted to the said plaintiff in the further sum of three thousand dollars

8 of like lawful money as aforesaid. And being so found in arrear and indebted to the said plaintiff, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said sum of money last mentioned when the said defendant should be thereunto afterwards requested.

Nevertheless the said defendant (although often requested, etc.) has not yet paid the several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiff; but to pay the same or any part thereof to the said plaintiff the said defendant has hitherto altogether refused and still does refuse, to the damage of the said plaintiff of four thousand dollars. And therefore the said plaintiff brings suit, etc.

SANFORD B. PERRY,
Pl'f's Att'ys.

Copy of account sued on.

The two items intended to be one and the same ac.

1861.		
March 1.—To cash rec'd from J. L. Langworthy & Co. for account and use of the plaintiff	$2,537	42
9 To cash rec'd from J. L. Langworthy & Bros. for account and use of the plaintiff	2,537	42

Marine Bank of Chicago to Dudley C. Hall, Dr.

To money lent and advanced	$3,000	00
To money paid, laid out, and expended	3,000	00
To money had and rec'd to and for the use of said pl'ff ..	3,000	00
To goods, wares, and merchandise sold and d'l'd	3,000	00
To labor and services	3,000	00
To interest upon and forbearance of divers sums of money .	3,000	00
To balance due on account stated	3,000	00

Endorsed: Filed Aug. 6, 1861.

WM. H. BRADLEY, *Clk.*

Summons.

CIRCUIT COURT OF THE UNITED STATES OF AMERICA,
Northern District of Illinois, ss:

The United States of America to the marshal of the northern district of Illinois, greeting:

We command you that you summon Marine Bank of Chicago, if it shall be found in your district, to be and appear before our
10 judges of our circuit court of the United States for the northern district of Illinois, at the October term thereof, to be holden at Chicago, in the district aforesaid, on the first Monday of October next, to answer unto Dudley C. Hall, in a plea of trespass on the case upon promises, to his damage, as he alleges, of four thousand dollars. And have you then and there this writ.

Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States of America, at Chicago aforesaid, this sixth day of August, in the year of our Lord one thousand
[L. S.] eight hundred and sixty-one, and of our independence the 86th year.

WM. H. BRADLEY, *Clerk.*

Marshal's return.

I have, this 7th day of August, A. D. 1861, served the within writ by leaving a copy of the same in the hands of J. Young Scammon,

president of the within-named Marine Bank of Chicago, he having admitted service of the same.

J. R. JONES,
U. S. Marshal of the Nor. Dist. of Ill.,
By GEO. L. WEBB, *Dep.*

11 Endorsed: Filed Aug. 7, 1861.
WM. H. BRADLEY, *Cl'k.*

And afterwards, to wit, on the tenth day of October, A. D. 1861, the said defendant, by her attornies, come and file the following plea and notice, to wit:

Circuit court of the United States for the northern district of Illinois, of the October term, A. D. 1861.

THE MARINE BANK OF CHICAGO *ads.* DUDLEY C. HALL. } Assumpsit.

And now come the said defendants, by McCagg and Fuller, their attorneys, and defend the wrong and injury, when, &c., and say that it did not undertake and promise in manner and form as the said plaintiffs have above thereof complained against it. And of this the said defendants put themselves upon the country, &c.

FULLER & McCAGG, *Def't's Att's.*
BECKWITH & HOYNE, *Counsel.*

To S. B. PERRY, *Plaintiff's Attorney:*

12 You will please to take notice that we shall insist upon and give in evidence, under the general issue in the trial of the above entitled cause, that at the said time when, &c., when said causes of action accrued as alleged in the said plaintiff's declaration, the said defendants had been and were acting as the bankers of said plaintiff in Chicago, and as his special agent in that behalf had collected for him and upon his account, and at his special instance and request, a large amount of depreciated and non-specie-paying bank notes passing current in said northern district of Illinois, as and in lieu of money, to wit, the notes of sundry and divers banks organized and created under and by virtue of the laws of Illinois, commonly known as and called "Illinois currency," and had received the same on deposit of or in payment of debts due said plaintiff which is the same identical indebtedness or funds claimed in the said plaintiff's declaration to be due them as money had and received of said defendants and not otherwise. And the said defendants aver that said indebtedness claimed in said plaintiffs' declaration arose out of the collection or receipt

13 by said defendants upon account of said plaintiff of a large amount of said depreciated bank notes, passing in lieu of money, at the request of and by agreement with said plaintiff, in payment of sundry demands or accounts remitted for collection to said defendants, at Chicago, in said district, or upon deposit, payable to order of said

plaintiff, and which bank notes are the same identical money claimed to be due as money from said defendants to said plaintiff, and not otherwise, of all which said plaintiff had notice. And the said defendants will also insist upon and give in evidence that the said indebtedness of said defendants, if any there be, arises out of divers and sundry collections made by the defendants at the instance and request of said plaintiff, and as the agent of said plaintiff, of large amounts of Illinois bank notes, commonly called "Illinois currency," consisting of the bank notes issued by divers and sundry banks organized and created under and by virtue of the laws of Illinois, and which were passing as and in lieu of money, but at a value greatly depreciated below that
14 of money, or gold and silver coin, and that at the time when said notes were received, or funds collected, it had been, and was a general custom and usage in Chicago, in said northern district of Illinois, among all banks, bankers, and other persons, to receive and pay out as currency in payment of all debts and general transactions of business, the notes of all Illinois banks organized and by virtue of the laws of Illinois, as and in lieu of money, of which custom and usage the plaintiff had notice; and that the said defendants, as such bankers and agents of said plaintiff, had always thence hitherto received in payment of all debts, transactions of business, and collections, the notes of all banks organized under and by virtue of the laws of said State of Illinois, which had been issued or circulated as and in lieu of money, although the defendants aver that it was well known, understood, and agreed, by and between the said plaintiff and defendant that such bank notes, otherwise sometimes called and
15 known as "Illinois currency," was depreciated in value and of greatly less value than money, specie, gold, or silver coin; and that said paper or bank notes were received as current funds, the same as if they were or had been intrinsically worth the nominal or pretended value expressed upon their face in dollars. And so the defendants will insist that if liable to said plaintiff, they are only liable as by their special agreement and undertaking as aforesaid, as agents aforesaid, for the true value of the amount of said bank notes or currency collected or received of or upon account of said plaintiff, and not the same or nominal amount specified as money claimed to have been had or received by said defendants, as aforesaid, in currency, as aforesaid, to the use, &c., of said plaintiff, nor of that amount of money paid or lent to said defendants by said plaintiff, nor as for that sum of money collected, and which are the same causes of action, and none other, specified in said plaintiff's declaration, which defendants will insist upon and are ready to verify, &c.

FULLER & McCAGG,
Def'ts' Att'y.
BECKWITH & HOYNE, *Counsel.*

16 Endorsed: Filed Oct. 10, 1861.
WM. H. BRADLEY, *Cl'k.*

And afterwards, to wit, on the eighteenth day of November, in the year of our Lord one thousand eight hundred and sixty-one, in the record of the proceedings of said court in said cause is the following entry, to wit:

DUDLEY C. HALL
v.
MARINE BANK OF CHICAGO. } Assumpsit.

Now come the parties, by their attorneys, and upon issue joined come a jury of good and lawful men, to wit: E. B. Kingsby, O. M. Brewster, S. W. Swift, Elias Benner, John C. Cockerton, J. V. Gale, Michael Burns, William More, P. Jacobs, James Galt, John Paul, and John J. Buckley, who are all duly sworn to well and truly try said issue. After hearing the evidence the jury return into court the following verdict: "We, the jury, find the issue for the plaintiff, and assess the damages at the sum of twenty-four hundred and one
17 dollars. And thereupon the defendant, by her attorneys, move the court to set aside the finding of the jury in this behalf and grant a new trial.

And afterwards, to wit, on the twelfth day of December, in the year last aforesaid, in the record of the proceedings of said court in said cause is the following entry, to wit:

DUDLEY C. HALL
v.
THE MARINE BANK OF CHICAGO. } Assumpsit.

Now come the parties, by their attorneys, and thereupon comes on to be heard the motion of the defendant for a new trial. And after argument of counsel, the court, being fully advised, overrules the same.

And afterwards, to wit, on the fourteenth day of December, in the year last aforesaid, in the record of the proceedings of said court in said cause is the following entry, to wit:

DUDLEY C. HALL
v.
MARINE BANK OF CHICAGO. } Assumpsit.

18 Now come the parties, by their attorneys, and the court having heretofore overruled the motion for a new trial,

It is thereupon considered and adjudged by the court that the plaintiff do have and recover of and from the said defendant the said sum of twenty-four hundred and one dollars, the damages found and assessed by the jury, together with the costs and charges herein, amounting to the sum of thirty-six dollars and forty-one cents, and that execution issue therefor.

And thereupon, on the fourteenth day of December, in the year last aforesaid, the said defendant, by her attorneys, come and file the following bill of exceptions, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois:

In circuit court, term A. D. 1861.

DUDLEY C. HALL
v.
THE MARINE BANK OF CHICAGO. } Assumpsit.

Be it remembered that on the trial of the above-entitled
19 cause, at the term of said court, to wit, on the day of , A. D. 1861, the plaintiff, to prove the issues on his part, introduced two letters of the defendant to the plaintiff of the date of 1st March, 1861, which were read to the jury as follows, to wit:

Letter of advice.

THE MARINE BANK OF CHICAGO,
Chicago, Illinois, March 1, 1861.

D. C. HALL, Esq., *Medford, Mass.:*

DEAR SIR: I credit your account this day twenty-five hundred thirty-seven $\frac{42}{100}$ dollars, received from Messrs. J. L. Langworthy & Co.

Respectfully, yours,

HAM. B. DOX, *Cashier.*

$2,537 $\frac{42}{100}$.
JOHN C. LONG, *Teller.*

MARINE BANK, *Chicago, M'ch* 1, 1861.

D. C. HALL, Esq., *Medford, Mass.:*

Your account has credit this day, as follows.

Respectfully, yours,

HAMILTON B. DOX, *Cashier.*

20 From J. L. Langworthy & Bros., Dubuque, Iowa.. $2,537 42

N. Y. ex. 8 per ct. prem."

Also a letter from the plaintiff to the defendant, of the date of 2d April, 1861, which was read to the jury, as follows, to wit:

MEDFORD, *Ap'l 2d, '61.*

HAMILTON B. DOX, *Cashier Marine Bank, Chicago:*

D. SIR: You have to my credit at your bank $2,537 42, received March 1st, from Dubuque; $6,945 95, rec'd from Quincy, Ill's. You will greatly oblige me if you will send me the rate for exchange you should charge to remit the above am'ts to me in exch'g. on N. Y. or Boston, and please give me your opinion as to future rate for exch'g.

Very resp'y,

DUDLEY C. HALL.

Also a letter from the defendant to the plaintiff, of the date of 5th April, 1861, which was read to the jury, as follows, to wit:

MARINE BANK OF CHICAGO,
21 *Chicago, Illinois, Ap'l* 5, 1861.

DUDLEY C. HALL, Esq., *Medford, Mass.:*

DEAR SIR: Your favor of 2d inst. is received. I find at your credit $2,537 42, and we have issued a certificate of deposite in your favor for $6,945 95, which of course must be returned to be remitted. We can remit now at 4 per cent. on New York or Boston, and in ordinary times should look for a decline as the opening of spring business approaches, but we have been repeatedly disappointed of late by unexpected events, and now seldom venture an opinion. Will take your directions in circumstances that may arise.

Yours, re'p'y,

SAM. S. ROGERS, *A. C.*

Also a letter from the plaintiff to the defendant, of the date of 9th April, 1861, which was read to the jury, as follows, to wit:

MEDFORD, *Mass., Ap'l* 9, 1861.

SAM'L S. ROGERS, Esq.,
Cash'r Marine Bank, Chicago:

D. SIR: Yours of the 5th, quoting rate of exchange, and
22 remarks in reference to the same is at hand. Enclosed I hand you certificates of deposite at your bank to my cr'd. for $6,945 95 and $2,537 42. If it was not for our political troubles, should feel sure that exchange would be lower; but as things are, I don't know what to think. If, upon receipt of this, you can remit me the proceeds of the within certificates, at about 4 per cent. for exchange, please do so by your check on New York or Boston.

Very respectfully,

DUDLEY C. HALL.

P. S.—I hope, on receipt of this, exch'g. will have declined, so that you can remit at about 3 per cent., or less.

Also a telegram from the plaintiff to the defendant, of the date of 12th April, 1861, which was read to the jury, as follows, to wit:

BY TELEGRAPH FROM BOSTON, 12 *Ap'l*, 1861.

TO CASHIER MARINE BANK:

Don't remit at over four (4) per cent.

DUDLEY C. HALL.

23 Also a letter from the defendant to the plaintiff, of the date of 12th April, 1861, which was read to the jury, as follows, to wit:

MARINE BANK OF CHICAGO,
Chicago, Illinois, April 12, 1861.

DUDLEY C. HALL, Esq., *Medford, Mass.* :

Your favor of the 9th inst. is received, enclosing our certificate of deposite, $6,945 95. and a letter of advice, $2,537 42, which I return to you herewith, exchange having advanced from 4 to 7 per ct. We must, under your instructions, await a more favorable turn of events. Your telegram of to-day is also received.

Yours truly,

SAM'L S. ROGERS, *A. C.*

By consent of defendant's counsel the plaintiff read in evidence all of the above-named letters and telegram, addressed by plaintiff to defendant, and in its possession, in order that the correspondence between the parties should go to the jury in chronological order.

It was admitted at the trial that the plaintiff made demand
24 of the defendant for the payment of the $2,537 42, mentioned in the defendant's "letter of advice," dated 1st March, 1861, copied above, on the 27th day of May, A. D. 1861, and that payment was not made.

Here the plaintiff rested his case.

The defendant then introduced as a witness Hamilton B. Dox, its cashier, who testified and said that he knew J. L. Langworthy & Bros., of Dubuque, Iowa; that they were bankers there, and kept an exchange account with the Chicago Marine and Fire Insurance Company of Chicago; that Langworthy & Brothers sent to the defendant $2,537 42, to be placed to the credit of the plaintiff, the same amount referred to in the defendant's "letter of advice" to the plaintiff, of the date of 1st March, 1861; that the money so sent was in part currency and in part a draft of Langworthy & Bros. on said insurance co., which was paid in currency; said Langworthy & Bros. account with the insurance co. being a currency account and not a specie account. The money received by the defendant was the cur-
25 rency then in use in this State, and not coin; that at the time the currency was received exchange on New York was 8 per cent. premium over said currency: that he had been cashier of defendant since November, 1860, and is now.

I have been engaged in the banking business at Chicago, Illinois, for the last six years. I know the plaintiff, and was cashier of the defendant at the time the collection sued for in this case was made. I know what was the circulating medium at Chicago during the fall of 1860, and the winter and spring of 1861, and what was the meaning of the word currency, as used during the last five or six years at Chicago and vicinity. The word "currency" meant the bills of the free banks of Illinois and Wisconsin, and which were always distinguished from coin and from the bills of other States than Illinois and Wisconsin. In the fall of 1860, and until April, 1861, the "currency" in use for all business transactions at Chicago and vicinity,
26 was the bills of the free banks of Illinois and Wisconsin.

After the first of April, 1861, and until May 18th, 1861, the currency was wholly composed of the issues of the free banks of Illinois. As compared with coin or exchange on New York, this currency was always a depreciated currency. It was of fluctuating and uncertain value. Soon after the election in November, 1860, it began to depreciate in value. In November and December, 1860, it was from 5 to 10 per cent. discount for coin. The bills of the different banks differed greatly in value at the same time. Their values depended upon the New York market value of the stocks deposited for the security of the bills. In November, 1860, the bills of nine of the Illinois banks became so much depreciated in value that they were thrown out, or rejected, by the banks and the community, and ceased to be used as currency. After this the remaining bills, that were used as currency, fluctuated in value from 5 to 10 per cent. dis-
27 count for coin until the first of April, 1861, when thirty more of the bills of Illinois banks were thrown out or rejected, and no longer used as currency. After April 1st, 1861, there were about $6,500,000 of the bills of Illinois banks in circulation, which was the sole circulating medium until May 18, 1861, when this currency had depreciated so much that it was no longer used as money. It had then depreciated from 10 to nearly 50 per cent. from coin. Some of the banks were then but little depreciated. The bills of the Marine Bank, The Bank of Galena, Bank of Ottawa, and two or three others were on the 18th of May, 1861, not so much depreciated, and were worth 90 cents to par. But these banks had only a very small circulation, say from $60 to $70,000, out of an entire circulation of nearly $6,500,000, and the bills of these had not, for nearly a year before, formed any appreciable part of the circulation in use as money. Dur-
ing all the time I have been in banking business at Chicago
28 there has been a distinction and difference noted between this currency and other kinds of money. When a customer or depositor made a deposit with a bank, this currency was entered as such in his bank book, and coin entered as such, and eastern funds as such, and the depositor drew it out as he paid it in, receiving gold for gold and currency for currency, unless, as was often the case, he was allowed a premium for his gold or eastern funds in currency, when he would draw out the whole in currency. The currency, when deposited, was drawn out in like currency, unless gold or exchange on New York was specially called for, when the customer was charged the difference in value at the time between currency and gold or exchange, which fluctuated from time to time. This currency declined in value during the winter and spring of 1861. During all that time it was used in payment of debts, and in all transactions of domestic business as money. We had hardly any other. The
collections made by defendant for plaintiff were all made in
29 this currency, or in checks upon banks payable in this currency. We made all our collections for other parties, whether banks or private individuals, in this currency, unless specially directed otherwise; and when we remitted to our eastern correspondents the proceeds of such collections we charged them discount, or difference

between this currency and New York exchange, which varied from time to time. New York exchange was always worth about ¼ or ½ of one per cent. less than coin. The funds of the bank were all kept together, including its own, those received on deposit, and for collections. All went into one fund.

This fund was made up of this Illinois currency. It is usual and customary for banks and bankers to keep all their funds together. The defendant put the funds received on collections for plaintiff with its own funds in the usual way. The currency which was received in payment of the collections made by defendant for plaintiff
30 was worth 94 cents on the dollar at the time it was received by defendant.

It continued to depreciate in value until May 18th, 1861, as did all the funds held by defendant with which plaintiffs were mixed. After that date it was no longer used as money, but was bought and sold as a commodity, by the brokers, at from 10 to 55 per cent. discount. At the time of the demand for payment made by plaintiff in this case, this currency was worth about 70 cents on the dollar. By this is meant that the average value of the bills which had been used as currency or money, and in which plaintiff's collection had been made during the winter and spring of 1861, and until May 18th, 1861.

Nearly all these bills were secured by the bonds of the southern or seceded States; they had no other security than these bonds except what might be got from the stockholders of the banks after the stocks were sold in New York under the banking law of Illinois, which liability of stockholders was not regarded in estimating the market value of the bills issued by the banks. The word currency as
31 used in this place meant such bank bills as passed current in community for business purposes, and which were used as money, but did not include the bills of banks of any States except Illinois and Wisconsin. The bills of all other banks than of those States were worth more than those of Illinois and Wisconsin, and always brought a premium over those. There were hardly any bills of other States in circulation in the winter and spring of 1861.

This was all the testimony given in the case. The court then charged the jury substantially as follows:

There is no controversy between the parties in this case as to whether the defendant received in the currency then in common use in this community the amount of money specified in the letter of the defendant to this plaintiff of the date of 1st March, 1861. That is conceded by the defendant.

The only question for the jury is the amount of damages the
32 plaintiff is entitled to recover. It is proved that this currency, at the time it was received by the defendant for the use of the plaintiff, was worth only ninety two cents on the dollar in New York exchange; that is, if the plaintiff had been here himself and had the currency in his own possession, he would have been obliged to pay eight per cent. premium to convert it into eastern exchange. It would be an equitable principle, and one to which I understood the pl'ff makes no objection, which should require the plaintiff to claim no more

now than the actual value in coin of the currency he deposited with the defendant at the time he made the deposite or caused it to be made; and the jury will assess the plaintiff's damages at that value at the time of payment to the defendant for the use of the plaintiff, with interest thereon at six per cent. from the time the same was demanded. Unless the jury shall find from the evidence that there was an agreement express or implied between the parties that the money so paid to the defendant for the use of the plaintiff
33 should be held by it at the risk of the plaintiff as to all depreciation therein, and in case the jury shall so find, then they will assess the plaintiff's damages at the value of the currency at the time of demand of payment, with interest on such value from the time of demand.

To all which the giving of said instructions the defendant, by its counsel, then and there excepted, and prays that this his exception may be allowed and entered of record.

And inasmuch as the said several matters and things do not appear of record herein, the defendant prays that the said exceptions so taken as aforesaid to the said several matters may be signed and sealed by the court, which is accordingly done.

In witness whereof, I have hereunto set my hand and seal, this day of 1861.

THOMAS DRUMMOND. [SEAL.]

Endorsed: Filed Dec. 14, 1861.

WM. H. BRADLEY, *Clerk.*

34 And afterwards, to wit, on the nineteenth day of December, A. D. 1861, the said defendant filed with the clerk of said court an appeal bond, in the words and figures following, to wit:

In United States circuit court, northern district of Illinois.

THE MARINE BANK OF CHICAGO, pl'ff in error, *ads.* DUDLEY C. HALL, def't in error. } In error.

Appeal bond.

Know all men by these presents, that we, the Marine Bank of Chicago, as principal, and J. Young Scammon and J. Young Scammon and Horatio G. Loomis as sureties, are held and firmly bound unto the above-named Dudley C. Hall in the sum of four thousand eight hundred and two dollars, to be paid to the said Dudley C. Hall, his executors and administrators, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and
36 severally, and our heirs, executors, and administrators, successors, and assigns, firmly by these presents. Sealed with our seals and dated this sixteenth day of December, A. D. 1861.

Whereas the above-named Marine Bank of Chicago hath prosecuted

a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled suit by the circuit court of the United States for the northern district of Illinois, at the October term, A. D. 1861, now, therefore, the condition of this obligation is such that if the above-named Marine Bank of Chicago shall prosecute its said writ of error to effect, and answer all damages and costs if it shall fail to make good its plea, then this obligation shall be void; otherwise, the same shall be and remain in full force and virtue.

In witness whereof, the said Marine Bank of Chicago, by its president and cashier, has hereto set its corporate seal; and the said J. Young Scammon and Horatio G. Loomis, have hereunto set their hands and seals the day and year above written.

J. YOUNG SCAMMON, [SEAL.]
President of the Marine Bank of Chicago.

37 HAMILTON B. DOX, [SEAL.]
Cashier of the Marine Bank of Chicago.

J. YOUNG SCAMMON. [SEAL.]

H G. LOOMIS. [SEAL.]

I am satisfied with the sureties to the above bond—J. Young Scammon and H. G. Loomis.

SANFORD B. PERRY,
Att'y for D. C. Hall.

Endorsed: Approved.

THOMAS DRUMMOND.

Filed Dec'r 19, 1861.

WM. H. BBADLEY, *Cl'k.*

And afterwards, to wit, on the 19th day of December, A. D. 1861, the defendant, by its attorney, sued out the following writ of error, to wit:

UNITED STATES OF AMERICA.
Northern District of Illinois, ss:

The United States of America to the judges of the circuit court of the United States for the northern district of Illinois, greeting:

38 Because in the record and proceedings, as also in the rendition of a judgment in a plea, which is in the said court, before you, between Dudley C. Hall and against Marine Bank of Chicago, a manifest error hath happened, to the great damage of the said Marine Bank of Chicago, as by its complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that

you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to law and custom of the United
39 States should be done.

Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States, this nineteenth day of December, in the year of our Lord one thousand eight
[L. S.] hundred and sixty-one, and of our independence the eighty-sixth year.

WM. H. BRADLEY, *Clerk.*

Endorsed: Filed Dec. 23, 1861.

WM. H. BRADLEY, *Clk.*

And on the 23d day of December, A. D. 1861, the said defendant, by its attorneys, came and filed the following citation, to wit:

United States of America to Dudley C. Hall, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the first Monday in December, A. D. 1862, pursuant to a writ
40 of error filed in the clerk's office of the circuit court of the United States for the seventh circuit and northern district of Illinois, wherein the Marine Bank of Chicago is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, this 23d day of December, in the year of our Lord one thousand eight hundred and sixty-one, (A. D. 1861,)

THOMAS DRUMMOND.

Service of this citation on me, by delivering a copy of the same to me, and showing to me this original, is admitted this day to have been made. Dec. 23, 1861.

SANFORD B. PERRY,
Pl'ff Att'y.

Endorsed: Filed Dec. 23, 1861.

WM. H. BRADLEY, *Clk.*

41 NORTHERN DISTRICT OF ILLINOIS:

I, William H. Bradley, clerk of the circuit court of the United States for the northern district of Illinois, do hereby certify the foregoing to be a true and correct transcript of the record and proceedings had in the cause wherein Dudley C. Hall was plaintiff and the Marine Bank of Chicago defendant, as the same appears from the records of said court, now remaining in my custody.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Chicago, in said district, this eleventh [SEAL.] day of Nov., A. D. 1862, and of the independence of the United States the 87th year.

WM. H. BRADLEY, *Cl'k.*

42 And now comes the said p'ff in error, and says that in the foregoing record and proceedings there is error, in this:

1. That the court erred in giving the instruction to the jury for the p'ff below, above set out and excepted to.

By its att'y,

SAM. W. FULLER.

DEC. 18, 1862.

43 UNITED STATES OF AMERICA:

In the Supreme Court of the United States, A. D. 1862, December term thereof.

THE MARINE BANK OF CHICAGO, pl'f in error,
vs.
DUDLEY C. HALL, def't in error.

And hereupon, afterwards, to wit, on, &c., the said Dudley C. Hall, by his attorney, Sanford B. Perry, freely comes here into court, and says that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and he prays the said Supreme Court of the United States, before the aforesaid justices thereof, now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c.

SANFORD B. PERRY,
Att'y for Def't in error.

Endorsed: Term No. 272. Marine Bank of Chicago *vs.* Dudley C. Hall. Joinder in error. Filed 17 Feb., 1863.

SANFORD B. PERRY,
Def't's Att'y.

Filed Dec. 6, 1862.